

House File 466 - Introduced

HOUSE FILE 466
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO HSB 133)

A BILL FOR

1 An Act relating to televised testimony in involuntary
2 commitment hearings for persons with substance-related
3 disorders and persons with mental illness.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 125.82, subsection 3, Code 2023, is
2 amended to read as follows:

3 3. The person who filed the application and a licensed
4 physician and surgeon or osteopathic physician and surgeon,
5 mental health professional, or certified alcohol and drug
6 counselor certified by the nongovernmental Iowa board of
7 substance abuse certification who has examined the respondent
8 in connection with the commitment hearing shall be present
9 at the hearing, unless the court for good cause finds that
10 their presence or testimony is not necessary. The applicant,
11 respondent, and the respondent's attorney may waive the
12 presence, televised appearance, or telephonic appearance of
13 the licensed physician and surgeon or osteopathic physician
14 and surgeon, mental health professional, or certified alcohol
15 and drug counselor who examined the respondent and agree
16 to submit as evidence the written report of the licensed
17 physician and surgeon or osteopathic physician and surgeon,
18 mental health professional, or certified alcohol and drug
19 counselor. The respondent's attorney shall inform the
20 court if the respondent's attorney reasonably believes that
21 the respondent, due to diminished capacity, cannot make an
22 adequately considered waiver decision. "*Good cause*" for finding
23 that the testimony of the licensed physician and surgeon or
24 osteopathic physician and surgeon, mental health professional,
25 or certified alcohol and drug counselor who examined the
26 respondent is not necessary may include, but is not limited to,
27 such a waiver. If the court determines that the testimony of
28 the licensed physician and surgeon or osteopathic physician and
29 surgeon, mental health professional, or certified alcohol and
30 drug counselor is necessary, the court may allow the licensed
31 physician and surgeon or osteopathic physician and surgeon,
32 mental health professional, or certified alcohol and drug
33 counselor to testify by telephone or televised means. The
34 respondent shall be present at the hearing unless prior to the
35 hearing the respondent's attorney stipulates in writing that

1 the attorney has conversed with the respondent, and that in the
 2 attorney's judgment the respondent cannot make a meaningful
 3 contribution to the hearing, or that the respondent has waived
 4 the right to be present, and the basis for the attorney's
 5 conclusions. A stipulation to the respondent's absence
 6 shall be reviewed by the court before the hearing, and may be
 7 rejected if it appears that insufficient grounds are stated
 8 or that the respondent's interests would not be served by the
 9 respondent's absence.

10 Sec. 2. Section 125.82, subsection 4, Code 2023, is amended
 11 to read as follows:

12 4. The respondent's welfare is paramount, and the hearing
 13 shall be tried as a civil matter and conducted in as informal a
 14 manner as is consistent with orderly procedure. The hearing
 15 may be held by video or telephone conference at the discretion
 16 of the court. Discovery as permitted under the Iowa rules of
 17 civil procedure is available to the respondent. The court
 18 shall receive all relevant and material evidence, but the
 19 court is not bound by the rules of evidence. A presumption in
 20 favor of the respondent exists, and the burden of evidence and
 21 support of the contentions made in the application shall be
 22 upon the person who filed the application. If upon completion
 23 of the hearing the court finds that the contention that the
 24 respondent is a person with a substance-related disorder has
 25 not been sustained by clear and convincing evidence, the court
 26 shall deny the application and terminate the proceeding.

27 Sec. 3. Section 229.12, subsection 3, paragraph b, Code
 28 2023, is amended to read as follows:

29 b. The licensed physician or mental health professional who
 30 examined the respondent shall be present at the hearing unless
 31 the court for good cause finds that the licensed physician's
 32 or mental health professional's presence or testimony is not
 33 necessary. The applicant, respondent, and the respondent's
 34 attorney may waive the presence, televised appearance, or the
 35 telephonic appearance of the licensed physician or mental

1 health professional who examined the respondent and agree to
 2 submit as evidence the written report of the licensed physician
 3 or mental health professional. The respondent's attorney
 4 shall inform the court if the respondent's attorney reasonably
 5 believes that the respondent, due to diminished capacity,
 6 cannot make an adequately considered waiver decision. "Good
 7 cause" for finding that the testimony of the licensed physician
 8 or mental health professional who examined the respondent is
 9 not necessary may include but is not limited to such a waiver.
 10 If the court determines that the testimony of the licensed
 11 physician or mental health professional is necessary, the
 12 court may allow the licensed physician or the mental health
 13 professional to testify by telephone or televised means.

14 Sec. 4. Section 229.12, subsection 3, paragraph a, Code
 15 2023, is amended to read as follows:

16 a. The respondent's welfare shall be paramount and the
 17 hearing shall be conducted in as informal a manner as may be
 18 consistent with orderly procedure, but consistent therewith
 19 the issue shall be tried as a civil matter. The hearing may
 20 be held by video or telephone conference at the discretion of
 21 the court. Such discovery as is permitted under the Iowa rules
 22 of civil procedure shall be available to the respondent. The
 23 court shall receive all relevant and material evidence which
 24 may be offered and need not be bound by the rules of evidence.
 25 There shall be a presumption in favor of the respondent, and
 26 the burden of evidence in support of the contentions made in
 27 the application shall be upon the applicant.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
 30 the explanation's substance by the members of the general assembly.

31 This bill relates to televised testimony at involuntary
 32 commitment hearings for persons with substance-related
 33 disorders and persons with a mental illness.

34 The bill provides that a court, in a hearing related to
 35 a person's involuntary commitment for a substance-related

1 disorder or mental illness, may allow a specified health
2 professional who examined the respondent in connection with
3 the commitment hearing to provide testimony at the hearing via
4 televised means. The bill also allows such hearings to take
5 place telephonically at the discretion of the court.

6 The bill provides that, in a hearing relating to a person's
7 involuntary commitment for a substance-related disorder or
8 mental illness, an applicant, respondent, and a respondent's
9 attorney may waive the televised appearance at the hearing
10 of the health professional who examined the respondent in
11 connection with the commitment hearing. The bill also allows
12 such hearings to take place telephonically at the discretion
13 of the court.